

AMENDED IN SENATE JUNE 25, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

No. 1280

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**Introduced by Assembly Members ~~Adams and Ma~~ Member Villines**  
**(Coauthor: Assembly Member ~~Solorio~~ Adams)**  
**(Coauthor: Senator ~~Cedillo~~)**

February 27, 2009

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~~An act to amend Section 42463 of the Public Resources Code, relating to recycling.~~ *An act to amend Section 273ab of the Penal Code, relating to child abuse.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 1280, as amended, ~~Adams Villines. Electronic waste recycling.~~ *Child abuse sentencing: child becoming comatose or suffering paralysis.*

*Existing law provides that any person who, having the care or custody of a child who is under 8 years of age, assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child's death, shall be punished by imprisonment in the state prison for 25 years to life.*

*This bill would, in addition, make it a felony, punishable by imprisonment in the state prison for 15 years to life, for a person, having the care or custody of a child who is under 8 years of age, to assault the child with force that to a reasonable person would be likely to produce great bodily injury, resulting in the child becoming comatose due to brain injury or suffering paralysis of a permanent nature, as specified.*

*Because this bill would change the definition of a crime and increase the punishment for an existing crime, it would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law, the Electronic Waste Recycling Act of 2003, requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer, as specified. Under existing law, the fees are deposited in the Electronic Waste Recovery and Recycling Account, and the California Integrated Waste Management Board and the Department of Toxic Substances Control are continuously appropriated the money in the account to make electronic waste recovery payments to cover the net cost of an authorized collector in operating a free and convenient system for collecting, consolidating, and transporting covered electronic wastes, and to make electronic waste recycling payments to cover an electronic waste recycler's average net cost of receiving, processing, and recycling covered electronic waste.~~

~~Existing law defines the term "covered electronic device" as a video display device containing a screen greater than four inches, measured diagonally, that is identified in the regulations adopted by the Department of Toxic Substances Control. Existing law provides that the definition of a "covered electronic device" does not include a video display device contained in certain appliances.~~

~~This bill would provide that if the department has adopted regulations identifying a listed appliance containing the video display device as a hazardous waste when discarded, the video display device is not excluded from the definition of a "covered electric device". The bill would also expand the list of appliances to include a freezer, induction cooktop or range, beverage maker, and food steamer.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 273ab of the Penal Code is amended to*  
2     *read:*

3     273ab. (a) Any person ~~who~~, having the care or custody of a  
4     child who is under eight years of age, *who* assaults the child by  
5     means of force that to a reasonable person would be likely to  
6     produce great bodily injury, resulting in the child's death, shall be  
7     punished by imprisonment in the state prison for 25 years to life.  
8     Nothing in this section shall be construed as affecting the  
9     applicability of subdivision (a) of Section 187 or Section 189.

10    (b) *Any person, having the care or custody of a child who is*  
11    *under eight years of age, who assaults the child by means of force*  
12    *that to a reasonable person would be likely to produce great bodily*  
13    *injury, resulting in the child becoming comatose due to brain injury*  
14    *or suffering paralysis of a permanent nature, shall be punished*  
15    *by imprisonment in the state prison for 15 years to life. As used*  
16    *in this subdivision, "paralysis" means a major or complete loss*  
17    *of motor function resulting from injury to the nervous system or*  
18    *to a muscular mechanism.*

19    *SEC. 2. No reimbursement is required by this act pursuant to*  
20    *Section 6 of Article XIII B of the California Constitution because*  
21    *the only costs that may be incurred by a local agency or school*  
22    *district will be incurred because this act creates a new crime or*  
23    *infraction, eliminates a crime or infraction, or changes the penalty*  
24    *for a crime or infraction, within the meaning of Section 17556 of*  
25    *the Government Code, or changes the definition of a crime within*  
26    *the meaning of Section 6 of Article XIII B of the California*  
27    *Constitution.*

28    ~~SECTION 1. Section 42463 of the Public Resources Code is~~  
29    ~~amended to read:~~

30    ~~42463. For the purposes of this chapter, the following terms~~  
31    ~~have the following meanings, unless the context clearly requires~~  
32    ~~otherwise:~~

33    ~~(a) "Account" means the Electronic Waste Recovery and~~  
34    ~~Recycling Account created in the Integrated Waste Management~~  
35    ~~Fund under Section 42476.~~

36    ~~(b) "Authorized collector" means any of the following:~~

37    ~~(1) A city, county, or district that collects covered electronic~~  
38    ~~devices.~~

~~(2) A person or entity that is required or authorized by a city, county, or district to collect covered electronic devices pursuant to the terms of a contract, license, permit, or other written authorization.~~

~~(3) A nonprofit organization that collects or accepts covered electronic devices.~~

~~(4) A manufacturer or agent of the manufacturer that collects, consolidates, and transports covered electronic devices for recycling from consumers, businesses, institutions, and other generators.~~

~~(5) An entity that collects, handles, consolidates, and transports covered electronic devices and has filed applicable notifications with the department pursuant to Chapter 23 (commencing with Section 66273.1) of Division 4.5 of Title 22 of the California Code of Regulations.~~

~~(e) "Board" means the California Integrated Waste Management Board.~~

~~(d) "Consumer" means a person who purchases a new or refurbished covered electronic device in a transaction that is a retail sale or in a transaction to which a use tax applies pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.~~

~~(e) "Department" means the Department of Toxic Substances Control.~~

~~(f) (1) Except as provided in paragraph (2), "covered electronic device" means a video display device containing a screen greater than four inches, measured diagonally, that is identified in the regulations adopted by the department pursuant to subdivision (b) of Section 25214.10.1 of the Health and Safety Code.~~

~~(2) "Covered electronic device" does not include any of the following:~~

~~(A) A video display device that is a part of a motor vehicle, as defined in Section 415 of the Vehicle Code, or a component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.~~

~~(B) A video display device that is contained within, or a part of a piece of industrial, commercial, or medical equipment, including monitoring or control equipment.~~

1 ~~(C) A video display device that is contained within a clothes~~  
2 ~~washer, clothes dryer, refrigerator, freezer, refrigerator and freezer,~~  
3 ~~microwave oven, conventional oven or range, induction cooktop~~  
4 ~~or range, beverage maker, food steamer, dishwasher, room~~  
5 ~~air-conditioner, dehumidifier, or air purifier only if the department~~  
6 ~~has not adopted regulations that identify the electronic device to~~  
7 ~~be hazardous waste, when discarded, pursuant to subdivision (b)~~  
8 ~~of Section 25214.10.1 of the Health and Safety Code.~~

9 ~~(D) An electronic device, on and after the date that it ceases to~~  
10 ~~be a covered electronic device under subdivision (e) of Section~~  
11 ~~25214.10.1 of the Health and Safety Code.~~

12 ~~(g) "Covered electronic waste" or "covered e-waste" means a~~  
13 ~~covered electronic device that is discarded.~~

14 ~~(h) "Covered electronic waste recycling fee" or "covered e-waste~~  
15 ~~recycling fee" means the fee imposed pursuant to Article 3~~  
16 ~~(commencing with Section 42464).~~

17 ~~(i) "Covered electronic waste recycler" or "covered e-waste~~  
18 ~~recycler" means any of the following:~~

19 ~~(1) A person who engages in the manual or mechanical~~  
20 ~~separation of covered electronic devices to recover components~~  
21 ~~and commodities contained therein for the purpose of reuse or~~  
22 ~~recycling.~~

23 ~~(2) A person who changes the physical or chemical composition~~  
24 ~~of a covered electronic device, in accordance with the requirements~~  
25 ~~of Chapter 6.5 (commencing with Section 25100) of Division 20~~  
26 ~~of the Health and Safety Code and the regulations adopted pursuant~~  
27 ~~to that chapter, by deconstructing, size reduction, crushing, cutting,~~  
28 ~~sawing, compacting, shredding, or refining for purposes of~~  
29 ~~segregating components, for purposes of recovering or recycling~~  
30 ~~those components, and who arranges for the transport of those~~  
31 ~~components to an end user.~~

32 ~~(3) A manufacturer who meets any conditions established by~~  
33 ~~this chapter and Chapter 6.5 (commencing with Section 25100)~~  
34 ~~of Division 20 of the Health and Safety Code for the collection or~~  
35 ~~recycling of covered electronic waste.~~

36 ~~(j) "Discarded" has the same meaning as defined in subdivision~~  
37 ~~(b) of Section 25124 of the Health and Safety Code.~~

38 ~~(k) "Electronic waste recovery payment" means an amount~~  
39 ~~established and paid by the board pursuant to Section 42477.~~

~~(l) “Electronic waste recycling payment” means an amount established and paid by the board pursuant to Section 42478.~~

~~(m) “Hazardous material” has the same meaning as defined in Section 25501 of the Health and Safety Code.~~

~~(n) “Manufacturer” means either of the following:~~

~~(1) A person who manufactures a covered electronic device sold in this state.~~

~~(2) A person who sells a covered electronic device in this state under that person’s brand name.~~

~~(o) “Person” means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association. Notwithstanding Section 40170, “person” also includes a city, county, city and county, district, commission, the state or a department, agency, or political subdivision thereof, an interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.~~

~~(p) “Recycling” has the same meaning as defined in subdivision (a) of Section 25121.1 of the Health and Safety Code.~~

~~(q) “Refurbished,” when used to describe a covered electronic device, means a device that the manufacturer has tested and returned to a condition that meets factory specifications for the device, has repackaged, and has labeled as refurbished.~~

~~(r) “Retailer” means a person who makes a retail sale of a new or refurbished covered electronic device. “Retailer” includes a manufacturer of a covered electronic device who sells that covered electronic device directly to a consumer through any means, including, but not limited to, a transaction conducted through a sales outlet, catalog, or the Internet, or any other similar electronic means.~~

~~(s) (1) “Retail sale” has the same meaning as defined under Section 6007 of the Revenue and Taxation Code.~~

~~(2) “Retail sale” does not include the sale of a covered electronic device that is temporarily stored or used in California for the sole purpose of preparing the covered electronic device for use thereafter solely outside the state, and that is subsequently transported outside the state and thereafter used solely outside the state.~~

~~(t) “Vendor” means a person that makes a sale of a covered electronic device for the purpose of resale to a retailer who is the~~

1 lessor of the covered electronic device to a consumer under a lease  
2 that is a continuing sale and purchase pursuant to Part 1  
3 (commencing with Section 6001) of Division 2 of the Revenue  
4 and Taxation Code.

5 (u) "Video display device" means an electronic device with an  
6 output surface that displays, or is capable of displaying, moving  
7 graphical images or a visual representation of image sequences or  
8 pictures, showing a number of quickly changing images on a screen  
9 in fast succession to create the illusion of motion, including, if  
10 applicable, a device that is an integral part of the display, in that  
11 it cannot be easily removed from the display by the consumer, that  
12 produces the moving image on the screen. A video display device  
13 may use, but is not limited to, a cathode ray tube (CRT), liquid  
14 crystal display (LCD), gas plasma, digital light processing, or other  
15 image projection technology.